

29 January 1974

OGC HAS REVIEWED.

MEMORANDUM FOR: FE/AIRIN

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SUBJECT
LEGAL

: Authority of Senior Representative, [redacted], with respect to Allowances for Furniture, Furnishings, etc., described in [redacted]

REFERENCE

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1. The referenced dispatch inquires whether [redacted] paragraph 9(b), authorizes the furnishing of air conditioning and deep freeze storage cabinets in [redacted] [redacted] deals in general with the providing and furnishing of quarters overseas. The question apparently arose from a dispatch from [redacted] FE Division requesting authority to purchase refrigerators [redacted] freezers and washing machines. This request was referred by FE to the Senior Representative, [redacted]. The referenced memorandum makes the following specific inquiry:

"It is requested that KURENA Headquarters further clarify this situation by the following action:

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"a. Further defining the relation of [redacted] to [redacted]

"b. Defining the authority of the Senior Representative to exceed the provisions of [redacted] as expressed in reference c."

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2. Executive Order 10,000 of 16 September 1948, Section 207, which applies to this situation, was issued pursuant to the Independent Offices Appropriation Act of 1949 as amended and the Foreign Service Act of 1946. Under its provisions the word, "Territories," includes "the Trust Territory of the Pacific Islands." This area, as is set forth in the Federal Personnel Manual Section 350.4 includes the Mariana Islands [redacted]. The regulatory provisions referring to Territories are found in [redacted] but there is no regulation with respect to territories similar [redacted] which pertaining to household furniture and equipment. The language of [redacted] specifically states in the first paragraph that the regulation pertains to areas outside the U. S. and its Territories. Paragraph [redacted] itself refers to specific items of household equipment at specific foreign stations. [redacted] Territory and not a foreign station, the answer to the first question put in the referenced memorandum is that [redacted] as no application to [redacted] as the language now

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reads. Regarding the second question, PE/Admin. has been unable to furnish this office with a copy of Reference c to the referenced memorandum. However, we would say that the Senior Representative has no authority to exceed the provisions of [redacted]. Regardless of this, we are of the opinion that ample authority exists for the Agency to grant allowances of household equipment to Saipan. The basis for this opinion is set forth hereafter.

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3. The governing criteria with respect to maximum allowances of furniture and furnishings for Government-owned personnel quarters are set forth in a table of allowances approved by the Director, Bureau of the Budget, Executive Office of the President, 29 December 1948, as an enclosure to Circular No. A-15 Revised. The actual table listing the furniture has been incorporated in toto in [redacted]. The circular states that:

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"The purpose of the table of maximum allowances is to further effective budgetary control and to promote uniformity in practices followed by the several departments and establishments as to the articles of furniture and furnishings provided by the Government for use in living quarters made available by the Government for occupancy of Government employees."

The description of the scope of the table includes the following:

"The use of the table of allowances and applicable requirements is mandatory on the executive departments and establishments of the Government of the United States of America within the continental limits of the United States and its permanent possessions and of the Government of the District of Columbia. The establishment of allowances for other personnel quarters outside of the United States shall be for administrative determination by the department or establishment concerned."

4. This would apparently raise the question as to whether or not a Trust Territory may be construed to be a "permanent possession" of the United States. It probably is not and if not then the question of furnishing household equipment at Saipan is simply one for administrative determination. However, we believe that further reading of the circular discloses in "Other Allowances" enough flexibility to obviate the necessity of resolving this point. This paragraph reads as follows:

"Other Allowances:

"The following allowances shall be for the administrative determination of the head of the department or establishment:

"1. Furniture and furnishings for libraries, dens, reception and recreational rooms, or for rooms other than those provided for in the table of allowances.

"2. Furniture and furnishings for rooms of unusually large size for which quantities specified in the table of allowances may not be adequate.

"3. Window draperies, curtains or portieres.

"4. Other equipment such as stoves, refrigerators, window shades, vacuum cleaners, fire extinguishers, fans, awnings, ash and garbage cans and related articles."

Paragraph 3 of Circular No. A-15 provides as follows:

"It is requested that the heads of the departments and establishments concerned maintain in force regulations in conformity with the provisions of this Circular and the tables of allowances and instructions referred to in paragraph 1, above."

5. In summary, our opinion is that, pursuant to the Agency policy of conforming to normal Government standards with regard to housekeeping functions there is, within the limits of Circular No. 15 Revised, ample authority for furnishing household equipment to territorial stations. It may be considered desirable to amend the Agency regulations appropriately. It is suggested that as far as may be desirable, allowances conform to any Government cover being utilized.

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Office of General Counsel

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